

Agriculture Classification Scenarios for Special Method of Valuation – Actual Case Studies

Agricultural Land is classified as:

- **Irrigated agricultural land** – agricultural land receiving supplemental water to that provided by natural rainfall – Assessed at \$491/Acre – One acre minimum to qualify
- **Dryland agricultural land** – agricultural land without a supplemental water supply (according to USDA, not applicable in Taos County due to insufficient rainfall) – Assessed at \$115/Acre – One acre minimum to qualify
- **Grazing land** – agricultural land which is used solely for the grazing of livestock and meets carrying capacity acreage requirements as established by the New Mexico Taxation and Revenue Department. – Assessed at \$3.99/Acre – Eighty acre minimum to qualify

Irrigated Classification – A one acre parcel is planted with alfalfa (or an alfalfa/grass mix, grass hay, corn, etc.), and the entire acre is being irrigated, is being cut and baled, or a crop is being harvested.

Yes. This example is the definition of a property that is prepared for planting, sowed, nurtured to a mature crop, and harvested. The Special Method of Valuation

What if there is no water-flow for one or two years? **Example – La Cordiera: This area of Taos County is predominantly residential, with additional irrigated land adjoining. In the spring of each year, the property owners clean the ditches, repair ditch gates, and anticipate water through the growing season. Only one or two irrigation days of water for the entire growing season has been available over the past two years. The property owners have continued to harvest at least one good cut, and depending on rain, a second good cut; if no rain, farmers are taking a second cut of the best available. The Special Method of Valuation is maintained. Note: areas at the farthest reaches of the ditch may not receive water and are still maintaining ditches and taking the best cuts available.**

If the property owner does not receive water in successive years, yet continues to maintain ditches with the expectation to receive water, pays ditch dues, and harvests available cuts, the bona fide agricultural use is considered viable.

Dryland Classification – Definition: a method of farming in semiarid areas without the aid of irrigation, using drought-resistant crops and conserving moisture. According to the Soil Survey of Taos County, authored by the US Department of Agriculture, the Soil Conservation Service, Forest Service, US Department of Interior, Bureau of Indian Affairs, Bureau of Land Management, and in cooperation with the New Mexico Agricultural Experiment Station, *“Only a small percentage of the land in the Taos Area is used for cultivated crops. Most of the cropland is on flood plains, terraces, and alluvial fans along streams that originate in the Sangre de Cristo Mountains. These streams provide water for irrigation. The main crops are barley, alfalfa, and irrigated pasture. A few areas are used for gardens and orchards. In the Taos area, irrigation is needed to produce cultivated crops.”* **A property may qualify for Dryland Classification on properties of less than 80 acres, where the property can produce enough forage for at least one animal unit (one animal unit is one cow, five sheep, or five goats) throughout the growing season (the growing season in Taos County is generally from June 1 to September 30). This means that no supplemental feeding is required during the growing season and the animal unit is raised for home consumption or for sale. The Forest Service, BLM, and County Extension Service define forage for carrying capacity as 26-30 (depending on the agency) pounds of dry forage per animal unit, per day. See the attached document for determining carrying capacity on small land tracts. The land must have the capacity to produce agricultural products.**

Grazing Classification – A property may qualify for Grazing Classification on properties of 80 acres or more, which are of sufficient size and capacity to produce more than one-half of the feed required during the year for the livestock stocked on the property.

Arroyos – A property classified as residential has an arroyo running through the property. The property owner fences in the arroyo and populates the arroyo with goats. Does this qualify for the Special Method of Valuation? **No.** The first sentence in statute (7-36-20) states, “The value of land used primarily for agricultural purposes shall be determined on the basis of the land’s capacity to produce agricultural products.” An arroyo, by its nature, cannot produce forage to sustain livestock; and residential property consists of a one-acre homesite, therefore, the arroyo will not qualify for the minimum acre requirement.

Plants or Crops – A property owner cultivates a 40ftx40ft (0.0367 acre) garden on a one-acre parcel of land. The property owner applies for the Special Method of Valuation for the one-acre parcel claiming they are producing crops for sale or home consumption. **No.** In the first instance, the entire one-acre parcel is not being used in a bona fide agricultural use. Statute states, “Tracts or parcels of land of less than one(1) acre, other than tracts or parcels used for the production of orchard crops, poultry or fish, are not used primarily for agricultural purposes.” Therefore, other than orchards, poultry farms, and fish farms, no agricultural venture qualifies if employed on less than one acre. (See #5 below)

Trees – A property owner purchases a parcel of forested land. The property owner thins the forest and removes ground and ladder fuel to suppress wildfires. Is the Special Method granted? **No.** The property owner has not planted trees for the purpose of home consumption or for sale, merely downed or allowed the removal of standing trees. Property stewardship is not a bona fide agricultural use; there is no production of trees (forest products).

Forest Products - A property owner purchases a parcel of forested land. The property owner thins the forest and removes ground and ladder fuel to suppress wildfires. As part of the thinning process, the property owner splits usable portions of the thinned trees for firewood. Is the Special Method granted? **No.** The property owner has not planted trees for the purpose of home consumption or for sale, merely enjoys an ancillary benefit of firewood by thinning trees. Property stewardship is not a bona fide agricultural use; there is no production of trees (forest products).

Orchard Crops – A property owner has planted fruit trees along both sides of a driveway, as landscaping, and around the children’s playground area. Is this considered an orchard? Is the Special Method granted? **No.** The Court of Appeals of the State of New Mexico upheld the Assessor’s denial of the Special Method finding that the property is primarily used as a residential property; there is no evidence of a bona fide orchard. (Alexander vs Anderson)

While growing nuts and fruits may constitute producing crops, an applicant for special method is required to demonstrate an objective intent to produce a crop for sale or home consumption; rather than landscaping. And, an unattended orchard that has not been pruned, is not regularly watered, and is not harvested does not qualify for the Special Method of Valuation.

Livestock – Property owners plant hay and pasture grasses to raise or sustain their recreational horses. Is the Special Method granted? **No.** The Court of Appeals of the State of New Mexico upheld the Assessor’s denial of the Special Method finding that the Taxpayers put their land to something less than

a "bona fide agricultural use." Recreational horses do not qualify a property for Special Method. (Alexander vs Anderson)

Poultry – A property owner has two acres; a one-acre homesite and one acre of vacant land other than a chicken coop and a dozen chickens. Does the one-acre parcel qualify for the Special Method, especially if the chickens are free range and extra eggs are sold to friends and coworkers? **No. Poultry production requires extensive regulation and inspection documents. A chicken coop in the back yard does not qualify a property for Special Method. It has been argued that chickens free-range on the property; however, poultry is not a qualifying livestock for grazing classification.**

Captive Deer or Elk Production – Land properly fenced to house the production of privately owned, captive deer or elk shall qualify for Special Method and be classified as grazing land; captive deer shall be valued as sheep and captive elk shall be valued as cattle. Elk and deer production requires licenses, health certificates, facility inspection certificates, etc. similar to those required by poultry producers. Wild elk or deer do not qualify a property for the Special Method of Valuation.

Fish Production - An applicant for Special Method of Valuation is required to prove that they are raising a salable fish, provide information on stocking the fish farm, provide inspection documentation from USDA or other regulating agencies (especially consumption fish and fish that may be introduced into public waters), water source and unlimited availability of water source, a privately owned fish hatchery, with all regulation inspection documentation, sales receipts, etc. This type of agricultural venture is not likely in our arid state outside of government hatcheries.

Examples of required documentation for poultry, deer, elk, and fish production:

- USDA and County Licenses
- Federal USFWS Permit
- Health Certificate from an accredited veterinarian
- Rearing Facility Inspection certificate of health from an accredited veterinarian
- National Poultry Improvement Plan #
- Size of lake – Maximum depth of lake – Acre feet of water impounded – water source
- Water Filing Number & Date
- If the lake is fed from or empties into public waters, how will ingress and egress of fish be prevented?
- Number, kind, and size of fish on hand, and number, kind, and size of fish to be purchased & stocked

Essentially, to provide disease testing and general requirements in order to protect native wildlife and address human health and safety issues.

Honey - Honey appears in statute as a one-word entry; however, statute does not quantify requirements or parameters to define what that is. Since there is no case law that we can find to address via court decisions, we make reasonable decisions based on the capacity of the land to produce agricultural products.

- **Example 1:** a property owner owns three acres of sagebrush covered land and has applied for Special Method of Valuation – Honey on two of the acres. The property owner has a one acre home site and two acres of non-residential, sagebrush covered vacant land. The property

owner placed one or more beehives behind an electrified fence attached to the carport. The two acres of sagebrush do not have the capacity to support the apiary; there are no pollinates or nectars to support a bee colony for one day, much less a growing season. Special Method is not granted.

- Example 2: a property owner has five acres of irrigable land. The property has 10 beehives and the five acres are planted with clovers, alfalfas, perennials, annuals, fruit trees, and vegetables. The property does have the capacity to produce agricultural products (honey) due to an aggregate planting that produces pollinates and nectars throughout the growing season. Special Method of Valuation – Irrigation is granted.

Federal Payment or Other Compensation – If an agency of the federal government pays an agricultural producer to lay the agricultural land fallow for a prescribed number of years, and the property qualified with a bona fide agricultural classification prior to the federal conservation program, the Special Method of Valuation classification is not affected.

Carrying Capacity for Grazing – The carrying capacity for grazing land in all New Mexico counties is determined by the New Mexico Taxation and Revenue Department. Taos County has three zones:

- Zone A – Tres Piedras/Ojo Caliente – This area encompasses Taos County west of the Rio Grande River: designated as Class A and requires no less than 107 acres to qualify for grazing status. (six animal units per 640 acres)
- Zone B – Questa/Taos – This area encompasses Taos County east of the Rio Grande River to the Sangre de Cristo Mountains: designated as Class B and requires no less than 80 acres to qualify for grazing status. (eight animal units per 640 acres)
- Zone C – Red River – This area encompasses Taos County from the Sangre de Cristo Mountains to the eastern border of Taos County; designated as Class C and requires no less than 160 acres to qualify for grazing status. (four animal units per 640 acres)

When determining whether the property is eligible for special valuation as land used primarily for agricultural purposes as grazing land, the property must have the capacity to produce more than one-half of the feed required during the year for the qualifying livestock stocked on the property. The livestock must be reported to the county assessor for valuation by either the property owner or the owner of the livestock.

Resting the Agricultural Land – Bona fide agricultural producers who wish to rest the land will retain the Special Method of Valuation if the agricultural land was under production in a bona fide agricultural use at least one of the preceding three years (the property does not maintain agriculture classification if it is rested three consecutive years). This allowance assists the land owner during a short-term drought; however, there is no statutory provision for long-term drought.

It is important to note that every effort must be made to care sufficiently and adequately for the land in accordance with accepted commercial practices. A property may lose the special method of valuation classification if the property is overgrazed; ditches are not maintained (abandoned or not used) and water rights are lost; orchards are un-pruned, unattended, and not harvested; etc.

Additional Pertinent Information

Since the statute is ambiguous in some cases, the assessor's office uses other qualifying portions of the statute, i.e; the land's capacity to produce agricultural products, evidence of bona fide primary agricultural use, carrying capacity, passive or incidental cultivation, etc.

- 1) Once a property's use has changed from agricultural to nonagricultural, there is no longer the need to give the property owner special tax treatment.
- 2) The owner of land valued by the Special Method shall report to the county assessor whenever the use of the land changes so that it is no longer being used primarily for agricultural purposes. A presumption exists that land is not used primarily for agricultural purposes if income from nonagricultural use of the land exceeds the income from agricultural use of the land.
- 3) A "homesite" as the term is used in the statute is the site used primarily as a residence, together with any appurtenant lands used for purposes related to residing on the site. A homesite shall be presumed to be a minimum of one acre.
- 4) Once land has been classified as land used primarily for agricultural purposes, no application for that classification is required for any succeeding year so long as the primary use of the land remains agricultural. If the assessor determines that the property no longer qualifies, the Special Method is removed from the property for the succeeding year.
- 5) Tracts or parcels of land of less than one acre, other than tracts or parcels used for the production of orchard crops, poultry, or fish, are not eligible for the Special Method. The only other exception is a property less than one acre under bona fide agricultural use, that is contiguous to land used primarily for agricultural purposes owned by a member or members of the immediate family of the owner, and qualifying acreage is obtained by the combination (immediate family is defined in statute as a spouse, children, parents, brothers, and sisters).

